

Deposition of:

Erin E. Ely, M.D.

Case:

Gina Torres, et al.

v.

City of St. Louis, et al.

Date:

02/05/2020



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10097 Manchester Rd, Ste 102
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Deposition of Erin E. Ely, M.D.

Gina Torres, et al. v. City of St. Louis, et al.

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF MISSOURI
3 EASTERN DIVISION
4

5 GINA TORRES and DENNIS L. TORRES,
6

7 Plaintiffs,
8

9 vs.

Case No. 4:19-cv-01525-DDN

10
11 CITY OF ST. LOUIS, ET AL.,
12

13 Defendants.
14
15
16

17 VIDEOTAPED DEPOSITION OF ERIN E. ELY, M.D.,
18 taken on behalf of the plaintiff, at the Office of the
19 Medical Examiner, 1300 Clark Avenue, in the city of
20 St. Louis, state of Missouri, on Wednesday, the
21 5th day of February, 2020, before Heather L. Shallow,
22 Certified Court Reporter, Registered Professional
23 Reporter, Registered Merit Reporter.
24
25

1 APPEARANCES OF COUNSEL:

2

3 FOR THE PLAINTIFFS:

4 Richard K. Dowd, Esq.

5 Dowd & Dowd, P.C.

6 211 North Broadway - Suite 4050

7 St. Louis, Missouri 63102

8 (314) 621-2500

9 rdowd@dowdlaw.net

10

11 FOR THE DEFENDANTS:

12 Erin K. McGowan, Esq.

13 City Counselor's Office

14 1200 Market Street

15 Room 314, City Hall

16 St. Louis, Missouri 63103

17 (314) 622-4618

18 McGowanE@stlouis-mo.gov

19

20 ALSO PRESENT:

21 Steve Johnston, Legal Video Specialist

22 360 Litigation Services

23 10097 Manchester Road - Suite 102

24 St. Louis, Missouri 63122

25 (314) 394-2206

Deposition of Erin E. Ely, M.D.

Gina Torres, et al. v. City of St. Louis, et al.

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(Original exhibits retained by Mr. Dowd.)

1 ERIN E. ELY, M.D.,
2 of lawful age, having been first duly sworn to testify
3 the truth, the whole truth, and nothing but the truth
4 in the case aforesaid, deposes and says in reply to
5 oral interrogatories propounded as follows, to wit:

6 THE VIDEOGRAPHER: We are on the record at
7 10:13. Today's date is February 5th, 2020, and we are
8 at the Office of the Medical Examiner of St. Louis.
9 The address is 1300 Clark Avenue, St. Louis, Missouri.

10 We are here today for the deposition of
11 Dr. Erin Ely to be taken in the case of Gina Torres
12 versus the City of St. Louis.

13 At this time would counsel identify
14 themselves for the record, please.

15 MR. DOWD: Richard Dowd for the plaintiffs.

16 MS. MCGOWAN: Erin McGowan for the
17 defendants.

18 THE VIDEOGRAPHER: Thank you. Would the
19 court reporter please swear in the witness.

20 (Oath was administered.)

21 EXAMINATION

22 QUESTIONS BY MR. DOWD:

23 Q. Doctor, could you state your name for the
24 record, please?

25 A. Erin Ely.

1 Q. Doctor, my name is Richard Dowd, as you
2 know, and I'm going to be asking you some questions
3 this morning. If I at any time ask you a question you
4 don't both fully hear and understand, would you make
5 me repeat it until you do?

6 A. Yes.

7 Q. Can you give the jury a little background in
8 terms of where you were born and raised?

9 A. Sure. I was born and raised in Cincinnati,
10 Ohio.

11 Q. Okay. And can you tell them about your
12 educational background, please? Where you went to
13 high school, college, medical school?

14 A. Sure. I grew up in -- as I said, in
15 Cincinnati, Ohio. I went to the same school
16 kindergarten through twelfth grade called Indian Hill
17 schools. So it had an elementary -- a primary,
18 elementary, middle school, and high school. I
19 received my BA from the University of Virginia. I
20 then attended medical school at Wright State
21 University Boonshoft School of Medicine. It's located
22 in Dayton, Ohio.

23 I did a -- following my medical degree, I
24 did a anatomic and clinical pathology residency at
25 Saint Louis University. Pathology is the study of the

1 diagnosis of disease. So it's both anatomic and
2 clinical. Anatomic is the body aspect of it, more of
3 the, quote/unquote, solid organs. So if you think
4 about diagnosis of disease and, for example, your
5 heart, your kidneys, your liver, whereas clinical is
6 the diagnosis of disease within the blood. So, for
7 example, the leukemias and lymphomas that are
8 diagnosed in the blood.

9 Following that, I did a one-year fellowship
10 in forensic pathology located here at the St. Louis
11 City Medical Examiner's Office. Excuse me. And at
12 the completion of that, I was hired on as an assistant
13 medical examiner here at the City of St. Louis. I am
14 also -- I'm actually employed by Saint Louis
15 University as an assistant medical examiner here in
16 the city of St. Louis, so I am an assistant professor
17 in the department of pathology. I am the co-director
18 of autopsy services at Saint Louis University
19 Hospital, so I oversee all of the hospital autopsies
20 that occur.

21 As -- in addition, I do some part-time work
22 for St. Louis County where I'm an assistant medical
23 examiner for St. Louis County, Franklin, Jefferson,
24 and St. Charles Counties.

25 Q. Thank you, Doctor. In -- in your profession

1 here at the medical examiner's office, what are your
2 duties?

3 A. So my duties as a medical examiner primarily
4 are determining cause and manner of death and how
5 individuals die. Forensic pathologists, if you will,
6 are what are considered the gatekeepers of death
7 certificates. Where we get vital statistics or the
8 data that tells us what people die from in the nation
9 comes from the Center for Disease Controls looking at
10 all the death certificates in the nation. So anyone
11 who dies suddenly, unexpectedly, violently,
12 accidentally, they will come to our office for
13 potentially an exam in helping to determine the cause
14 and the manner of death.

15 Q. All right. So you have specialized training
16 as a medical examiner in determining the cause of
17 death, as you explained, with regard to gunshot
18 deaths. Do you have a lot of experience and training
19 with regard to determining the cause of death when
20 it's related to gunshots?

21 A. Yes. Gunshot wounds -- excuse me -- are
22 included in something that a medical examiner would be
23 expertly trained on. Part of my education as the
24 fellow is determining -- is evaluating gunshot wounds
25 to determining cause and manner of death.

1 Additionally, I don't know if you know this, but
2 St. Louis is, per capita, the highest gunshot -- the
3 highest homicide rate in the country, so in the four
4 years that I've been here, I have had an extremely
5 large experience with homicides, and in St. Louis,
6 it's primarily by gunfire. So I have had probably at
7 least over 400 homicides in just four years.

8 Q. All right. Now, you performed the autopsy
9 -- do you call it the autopsy?

10 A. Yes.

11 Q. Okay. You performed the autopsy on Isaiah
12 Hammett; correct?

13 A. Correct.

14 Q. And as a result of that, you generated a
15 report; is that correct?

16 A. Correct.

17 Q. I'm going to hand you what's been marked
18 Plaintiff's Exhibit No. 1 and ask you to identify that
19 for the jury, please.

20 A. This is my autopsy report, but I think there
21 might be a page missing.

22 Q. I have 15 pages.

23 A. Let me see. One, two, three -- yes, I have
24 15 here, but I don't think this one has all 15. One,
25 two --

1 Q. Okay. Well, let's just use -- if you would,
2 just refer to your copy.

3 A. Okay.

4 Q. But other than the missing page, that --
5 that is a copy of your report?

6 A. Yes.

7 Q. All right. And I'd just like to -- thank
8 you -- go through that with the jury very briefly.
9 With regard to the postmortem examination, what -- can
10 you tell the jury what that is?

11 A. The postmortem examination is another term
12 for autopsy. It is what we do to determine the cause
13 and manner of death. It starts with what we call --
14 well, let me back up. An example -- for example, on a
15 homicide, we will get full-body x-rays prior to
16 beginning the examination to determine if there is any
17 ballistic evidence that I need to recover. So first,
18 full body x-rays would be done.

19 Q. Did you do that with Mr. Hammett?

20 A. Yes, full body x-rays were performed.

21 Q. All right.

22 A. And then following that, we will start with
23 what's called the external examination where
24 everything is documented on the outside of the body.
25 So we document clothing, height, weight, any

1 distinguishing factors on the individual such as scars
2 or tattoos, and then also any injuries.

3 Q. All right. And that is the first two pages
4 of your report; correct?

5 A. Correct.

6 Q. And then there are numbered paragraphs and
7 it's entitled Detailed Description of Specified
8 Injuries. Is that a fair statement?

9 A. Yes. So after the external examination, we
10 do the internal examination which involves opening the
11 body and looking at all of the organs, and I will look
12 for any natural disease pathology as well as look at
13 the injuries to the organs within the body. And it's
14 only once you completely open the body you can fully
15 determine with gunshot wounds exactly the trajectory,
16 the path of bullets.

17 Q. Okay. Did you find any natural disease
18 pathology in Mr. Hammett?

19 A. No, there was no natural disease pathology.

20 Q. Okay. And you describe in the next 31
21 paragraphs each of the injuries you found?

22 A. Correct.

23 Q. And correct me if I am wrong. If you go
24 back to page 11 of your report, Pathologic Findings --

25 A. Mm-hmm.

1 Q. -- is that a description of each of the
2 wounds and injuries that you found?

3 A. Yes. The pathologic findings describes all
4 of the injuries that were listed initially and then --
5 so all of the injuries are listed initially. Gunshot
6 wounds, abrasions -- abrasions would be like a scrape
7 or a rub in the skin -- and then only the gunshot
8 wounds are then further described. But the abrasions
9 and all of that was listed initially. And then the
10 findings is putting it altogether in an outline form
11 to make it easier and more readable. A little bit
12 less information is included. For example, when I
13 describe everything initially, I'm going to give sizes
14 of injuries, whereas in this final pathologic
15 description I'm not going to include sizes of injuries
16 to make it easier to read --

17 Q. Okay.

18 A. -- and understand.

19 Q. All right. If you would, turn to page 11,
20 Pathologic Findings, and if you would, tell the jury
21 what -- what the first wound that you described is.

22 A. The first wound is a gunshot entrance wound
23 of the left neck.

24 Q. All right. And is there any reason you put
25 that wound first?

1 A. So typically for me when I do my reports, I
2 like to start with wounds that are more lethal than
3 others and then I will go from head to toe. So in
4 this case, ultimately this wound is a lethal wound.
5 There are other wounds that are lethal as well.
6 However, this would also be a lethal wound so it was
7 labeled as No. 1. I elected to go directly from head
8 to toe on this because I just started with wounds that
9 were -- that could be lethal and I started with the
10 highest lethal wound.

11 Q. With regard to the wound that you started
12 with being the most lethal --

13 A. Not necessarily the most lethal. He had a
14 very devastating injury also in his chest --

15 Q. Okay.

16 A. -- but I can't say for certain which wound
17 was first.

18 Q. Gotcha.

19 A. So I just tend to start with, A, lethality,
20 and B, go from head to toe.

21 Q. Okay. I am going to hand you what I am
22 marking as Exhibit 2 and ask you to identify that for
23 the jury, please.

24 A. This is a photograph of the decedent located
25 at the -- at the scene where he died.

1 Q. Have you seen that photograph before?

2 A. I am not sure if this is the crime scene
3 photos or our investigator's photos, but we have a
4 similar photo to this, yes.

5 Q. Okay. And could you hold that up and point
6 out that wound to the jury, please?

7 A. So this is the photograph. The wound is on
8 the left side of the neck. It's located right there.

9 Q. All right.

10 THE VIDEOGRAPHER: Can you point to it
11 again, please?

12 A. Sure. This might be easier. Right there.
13 Left side of the neck.

14 Q. (By Mr. Dowd) And can you tell the jury how
15 you determined the trajectory of that bullet that
16 caused that wound?

17 A. So, again, it's -- you can't definitively
18 determine everything until you open the body. So once
19 the body is open, you look at the wounds and where
20 that projectile ended up. So this gunshot wound ended
21 up going upward, backward, and rightward.

22 Q. Okay. Would you, for the jury, mark on that
23 diagram where -- just -- just do a circle with an X in
24 it where that wound happened?

25 A. I'm actually going to do an E for entrance.

1 Q. Okay.

2 A. X could be for exit. So this is about.

3 Q. And pursuant to your subsequent examination
4 as you described with regard to opening up, you
5 determined the trajectory of that -- that gunshot
6 wound?

7 A. Yes.

8 Q. And would you, for the jury -- it's my
9 understanding it fractured his C2 vertebrae, severed
10 his spinal cord?

11 A. (Nods head.)

12 Q. Is that true?

13 A. Yes.

14 Q. Okay.

15 A. There were more injuries than that. It
16 actually went through his C2 -- so it went through his
17 larynx, which is part of your breathing apparatus in
18 the neck. Some of you may think of it more as the
19 trachea, but the medical term best of the region of
20 the neck that it injured was the larynx. Then it
21 injured the second cervical vertebrae in the neck. So
22 if you think about your neck, it's called the cervical
23 vertebrae. There are seven vertebrae. Starting
24 closest to the skull is 1. 2 would be the second one.
25 It went through that vertebrae. It severed the spinal

1 cord. It fractured both his mandible and maxilla. So
2 if you think about where your teeth are located, your
3 bottom teeth are with the mandible. Your upper teeth
4 are with the maxilla. So it fractured both of those
5 bones. And the fragments kind of -- this was
6 high-velocity gunfire, so with high velocity you tend
7 to get ballistics that tend to fragment in multiple
8 pieces so fragments were recovered throughout the neck
9 and in the -- the soft tissue of the face.

10 He also incurred some basilar skull
11 fractures from this. So if you think about the brain,
12 your brain sits about at your eye level in your skull.
13 So if we take off -- off the top of the head, take out
14 the brain, that's the base of your skull. You would
15 be looking down on the base of the skull. He had
16 three bones that were fractured due to the blast
17 nature of this gunshot wound.

18 Q. All right. Could you, for the jury, use --
19 use this to point out the trajectory of that bullet
20 when it struck him?

21 A. So this photo -- this depiction is good. We
22 do everything in what's called anatomic position,
23 which is a little foreign to a lot of people. It's
24 with an individual standing with your hands at your
25 side, palms up. And we give all directions based on

1 this stance. I cannot say how he was standing at the
2 time he was injured. However, we give everything from
3 standing in anatomic position. So anything going
4 backwards will be from this position, upwards,
5 downwards, right, and left. So this bullet went
6 upwards --

7 Q. When you use the term "right," are you
8 talking about the individual's right?

9 A. Correct.

10 Q. All right.

11 A. His right, his left.

12 Q. All right.

13 A. So this bullet tracked upwards, backwards,
14 and rightward. So it went up this way. It's hard to
15 definitively show you backwards.

16 Q. But if you start where the wound happened --

17 A. Uh-huh. Yep.

18 Q. -- can you --

19 A. So it goes -- it goes upwards, backwards,
20 and rightward. And then again, as I said, it was very
21 fragmentary nature of this, so fragments of
22 projectiles were recovered that were large enough to
23 be recovered.

24 Q. All right. So it appeared that the bullet
25 came -- if I may -- correct me if I'm wrong, but if it

1 went up to his C in the base of his skull, it would be
2 something like that?

3 A. No projectiles were actually recovered in
4 the base of the skull. I think it was more of the
5 blast nature of it. So I think it was more like this.

6 Q. Okay. All right.

7 A. Because no projectiles actually entered into
8 the cranial cavity. He just had fractures in the base
9 of the skull. So it wouldn't have gone as severe an
10 angle. It would have been more like this.

11 Q. Okay. Now, with regard to that angle, can
12 you tell the jury what the angle would have been in
13 this plane? Would it have been like this or would it
14 have been like this?

15 A. It would have been backwards. So it would
16 have been like this. It's -- it's hard on a
17 two-dimensional.

18 Q. I understand.

19 A. So it would have been backwards. So from
20 front to back. So it would have had to go through the
21 neck and injure the second cervical vertebrae and then
22 also sever the spinal cord.

23 Q. So from -- from this angle, if you take this
24 as being the flat surface of the body, how many
25 degrees would you say? It didn't come in straight

1 from the side, did it?

2 A. It could have come in straight from the
3 side. I can't say for certain.

4 Q. Well, if it came in straight from the side,
5 wouldn't it have gone --

6 A. Oh, I -- I'm sorry. I understand what
7 you're saying. Yes. It came at an angled nature from
8 the side.

9 Q. Okay. And what would your best estimate be
10 as to that angle if this is a flat plane?

11 A. Oh, I can't make a -- I'm not that much of a
12 ballistics expert.

13 Q. I see.

14 A. However, all I can say is that the gun has
15 to be positioned in an -- in a way such that it could
16 be -- the gun -- the -- the bullet could go through
17 the body, upwards, backwards, and rightward.

18 Q. Okay.

19 A. So it had to be below.

20 Q. Like you described before, like --

21 A. Correct.

22 Q. -- like that?

23 A. Correct.

24 Q. Okay. But -- and as far as whether it was
25 this -- at this angle or this angle, you can't say?

1 A. True. It's also more challenging with high
2 velocity because high velocity rounds are made to
3 fragment and cause destruction within the body. So
4 just because you have injury at a higher level doesn't
5 mean that it was that steep of an -- of an angulation.

6 Q. Okay.

7 A. So definitively determining that, you would
8 probably need more of a ballistics expert.

9 Q. Okay. But in terms of the -- the trajectory
10 on this plane, you -- you've testified it was
11 something like that?

12 MS. MCGOWAN: Objection. Foundation.

13 Q. (By Mr. Dowd) Am I right or not?

14 A. That's more steep than what I've said, yep.

15 Q. I'm sorry. Okay.

16 A. More like that. Yep.

17 Q. But you said -- oh, I see. And -- and the
18 fact that it got to the base of his skull indicate --
19 could be from fragmentation?

20 A. I think the base of the skull fractures are
21 more a blast effect. So if you think about a gunshot
22 wound, it's going to create a cavity.

23 Q. Vibration?

24 A. Yeah. And so there's going to be expansion
25 and I think that is more -- he did have fractures of

1 his mandible and maxilla and there were fragments
2 recovered within the soft tissue of the lower face, so
3 I do think it was at an angle where it could hit the
4 lower face. However, I don't think it was as steep as
5 that, but again, I feel like that's the best I can
6 say.

7 Q. Okay. But that's your best statement?

8 A. Mm-hmm.

9 Q. Okay. With regard to wound number two --

10 A. Okay.

11 Q. -- could you describe that for the jury as
12 well?

13 A. Sure. Wound number two is a gunshot
14 entrance wound to the left chest.

15 Q. And with regard to Exhibit No. 2, could you
16 point that out to the jury with your pen, if you
17 would?

18 A. Gunshot wound number two is located on the
19 left side of the chest.

20 THE VIDEOGRAPHER: The light is kind of
21 reflecting. Maybe angle it down just a little.

22 THE DEPONENT: (Complies.)

23 THE VIDEOGRAPHER: Other way. Sorry. There
24 you go. Thank you.

25 Q. (By Mr. Dowd) All right. And can you tell

1 -- tell the jury what you found with regard to that
2 wound?

3 A. This was also another wound that would be
4 considered lethal. It had a very devastating injury
5 within the chest or the thoracic cavity. It
6 injured --

7 THE VIDEOGRAPHER: I'm sorry. Her papers
8 were -- could you repeat that?

9 THE DEPONENT: Sure. Is it easier if I sit
10 down too?

11 THE VIDEOGRAPHER: Yes.

12 A. So this was also another injury that had a
13 very devastating effect in the chest cavity. This
14 injured -- refer -- the left fourth rib, the lower
15 lobe of the left lung. So if you think about the left
16 lung, it has two lobes, so the lower lobe of the left
17 lung. It obliterated the sac that holds the heart
18 which is called the pericardial sac, and then it had a
19 devastating injury to the heart, including all four
20 chambers of the heart. If you think about your heart,
21 it's a pump. It has four different chambers. It had
22 a very large injury to the heart, injured all four
23 chambers. It also injured the aorta. The aorta is
24 the largest blood vessel -- largest artery in your
25 body that carries blood from the heart to other

1 aspects of the body. It tracks through both your
2 chest and your abdomen. It was injured kind of by the
3 -- the area right by the heart.

4 The sternum, or if you think about your
5 chest plate, the midline chest plate that your ribs
6 attach to was fractured, and then multiple other ribs.
7 I'm sorry. The middle lobe of the right lung. The
8 right lung has three lobes, so the middle lobe of the
9 right lung, and then the right fourth and sixth ribs
10 were fractured, and this projectile exited the body in
11 multiple components.

12 Q. (By Mr. Dowd) Would you, again for the
13 jury, mark the -- with red where that wound appeared
14 to you on
15 Mr. Hammett? If you need the photograph --

16 A. (Complies.)

17 Q. Was there -- was there an exit to the neck
18 wound?

19 A. No.

20 Q. Okay. And what about to this chest wound
21 that you've just demonstrated?

22 A. Yes, there are multiple components related
23 to this exit -- this entrance wound. They were
24 located here, here, and here.

25 Q. And what do you -- what are those

1 components, please?

2 A. Those are all exit wounds related to this
3 gunshot entrance wound.

4 Q. I see. Can you describe -- tell the jury
5 why that was?

6 A. After examining the body, to the best of my
7 ability -- obviously this is a challenging case
8 because of the fragmentary nature of the ballistics --
9 those are exit wounds associated with this entrance
10 wound.

11 Q. All right. Because of the bullet striking
12 bone?

13 A. It's more -- not just that. Again, as I
14 have previously said, it's high velocity. The nature
15 of these projectiles are that when they enter whatever
16 tissue they enter, they are made to cause destruction
17 and to fragment so sometimes you get multiple
18 component exit wounds.

19 Q. Are you familiar with a .223 caliber that
20 the St. Louis Police Department uses?

21 A. I don't know exactly what they use, but it's
22 possible that that's what they used.

23 Q. The officers have testified that that's --
24 that's what they shot him with. Is that consistent
25 with your findings?

1 A. That is consistent with a high velocity
2 gunshot wound, yes.

3 Q. Okay. Would you, for the jury -- again, you
4 use the same description as the neck wound, tracked
5 upward, backward, and rightward; is that correct?

6 A. Correct.

7 Q. And can you show the jury that trajectory?

8 A. Again, it's going upward, backwards, and
9 rightward.

10 Q. Okay. And with -- with regard to the plane
11 of this drawing, you can't say with -- how specific
12 can you be with regard to where it entered and the
13 direction it was going when it entered?

14 A. Again, what I -- what I can say is that the
15 barrel of the gun had to be positioned at a level
16 lower -- lower than this wound because it's going
17 upward. So the barrel of the gun had to be positioned
18 such that this bullet could go into the body upward,
19 backward, and rightward.

20 Q. Would that be -- when you say the position
21 of the body, could that be caused by the body being on
22 the -- on the floor?

23 MS. MCGOWAN: Objection. Foundation.

24 Q. (By Mr. Dowd) Your best estimate.

25 A. I cannot say anything about the position of

1 the body. Potentially he could have been on the
2 floor, he could have been standing, he could have been
3 kneeling. All I can say is that the barrel of the gun
4 had to be positioned such that --

5 Q. Okay. So if based on -- and -- and that
6 angle was -- was like this, roughly? You --

7 A. I mean, it goes backwards. So it's kind of
8 like this, kind of into the -- into the paper.

9 Q. Okay.

10 A. And upward and rightward.

11 Q. Okay. So the gun had to be down in this
12 position?

13 MS. MCGOWAN: Objection. Foundation.

14 Q. (By Mr. Dowd) Is that what you're saying?

15 A. It has to be below where he was. I don't
16 know how he was when this was fired, so potentially if
17 he is standing --

18 Q. What I'm saying is the gun had to be below
19 -- as you -- as you put it, below where it's -- the
20 bullet struck him?

21 MS. MCGOWAN: Objection. Foundation.

22 Q. (By Mr. Dowd) You can answer.

23 A. The gun has to be positioned such that it
24 can go upward, backward, and rightward.

25 Q. Which means --

1 A. How the victim was at the time, I cannot say
2 for certain. Again, technically you would think
3 below, but I guess potentially if he were on the
4 ground, you would be above, so I can't say for
5 certain.

6 Q. Okay. But --

7 A. It just has to be positioned such that the
8 bullet can go through the body at that angle.

9 Q. So --

10 A. At that direction.

11 Q. So to use those same words, the -- the gun
12 would have to be downward from the wound; correct?

13 A. Yes.

14 Q. All right. And -- and leftward? Because
15 you used the word -- the term rightward.

16 A. Yes. The gun --

17 Q. Right.

18 A. -- would have to be on the left side of the
19 body so that it could go rightward.

20 Q. Okay. Thank you. With regard to the third
21 wound, could you -- could you point that out for the
22 jury, please?

23 A. I don't think there is a very good -- I
24 don't think it's really --

25 Q. Okay.

1 A. -- located well on this. It's kind of
2 covered up underneath his arm.

3 Q. Okay. If you would --

4 A. It would be on the left lateral aspect or
5 the side of his chest. So the left side of his chest.

6 Q. Okay. Would you go ahead and mark on the
7 diagram that, please?

8 A. Mm-hmm.

9 Q. And, if you would, the trajectory of that,
10 please?

11 A. Again, this one goes upward, backward, and
12 rightward. So, again, it's going this way kind of
13 into the -- into the body.

14 Q. And -- and what parts of his body were
15 damaged by that?

16 A. This one was -- I'm sorry. I did that
17 incorrectly.

18 Q. Okay.

19 A. This one actually went upward, backward, and
20 it did go rightward. So it was kind of like this.
21 And it exited the anterior aspect of his -- of his
22 shoulder.

23 Q. Okay. I'm sorry. Could you show that to me
24 one more time?

25 A. (Complies.)

1 Q. It was at that angle?

2 A. Yes.

3 Q. So it went in basically under his left arm
4 and -- and went up through the --

5 A. It's the side of his chest and went upwards.

6 Q. To his clavicle, to his collarbone?

7 A. To his kind of shoulder region, yes.

8 Q. Okay. And is there an exit wound?

9 A. There is. (Demonstrates.)

10 Q. Okay. With regard to the next wound,
11 please?

12 A. He has another wound on the lateral aspect
13 or the side of his chest.

14 Q. If you'd mark that, please.

15 A. (Complies.) And this wound -- I apologize.
16 I looked at the wrong one. This one goes upward,
17 backward, and rightward, similar to this wound, into
18 the chest back like this, and it fragmented within the
19 chest.

20 Q. All right. And the next one, please?

21 A. Okay. He had another wound of his left
22 lateral chest. Again, similar -- like possibly and a
23 little bit below here. It still is his chest, not his
24 abdomen. But again, also similar, went upward,
25 backward, and rightward, and fragmented within the

1 chest cavity.

2 Q. All right. Can -- because these bullets
3 were all hitting in his chest, can -- can you
4 determine which one was doing the damage?

5 A. Not probably definitively. I believe it was
6 probably this one that injured the heart just based on
7 the trajectory and using the internal examination, but
8 it's possible that one of the other ones actually made
9 that injury, but I did the best I could and based on
10 the evidence that I had, also reviewed with some of
11 the other doctors in the office for their opinion too
12 and it was felt that this one is probably the one that
13 injured the heart. However, it's possible that one of
14 these, based on the fragmentary nature of these
15 bullets, actually caused the heart injury.

16 Q. All right. Would you describe the next
17 wound for the jury, please?

18 A. Yes. Give me just a second. There is
19 another entrance wound to the left chest. I believe
20 it is there. This one also had a similar trajectory.
21 Went upward, backward, and rightward, and fragmented
22 again within the chest. As we said previously, again,
23 potentially this could have been the lethal wound.
24 However, based on the trajectory, the location of this
25 one with where the injuries to the heart was, it was

1 felt that this was actually the one that caused the
2 lethal heart injury.

3 Q. Okay. The next wound, please?

4 A. The next wound is in the right central
5 chest. And it also went upward, backward, and
6 rightward again, kind of into the body diagram, to the
7 right and fragmented within the chest. Obviously this
8 one is more to the right so your likelihood of injury
9 to the heart with this would not be highly likely.
10 So, again, this one kind of went this way and
11 fragmented within the chest cavity.

12 Q. Based upon your examination, could you tell
13 the position of Isaiah's arms at the times -- at the
14 times he was shot?

15 A. I cannot testify to that.

16 Q. Okay.

17 A. Again, we give everything in anatomic
18 position.

19 Q. Okay.

20 A. So I can't say how his hands were.

21 Q. All right.

22 A. Or arms.

23 Q. Are you done with that wound?

24 A. I'm done with that wound.

25 Q. Would you move to the next, please?

1 A. Sure. The next is the right lower chest.
2 It's located approximately right there. This one also
3 tracked upward and rightward, but this one, I don't
4 believe, actually entered into the body cavity. It
5 just injured soft tissue, and this one exited on the
6 right lateral chest. So this one doesn't go backward
7 per se. Just goes upward and rightward to exit there.

8 Q. Okay. And the next, please?

9 A. The next is the left lateral back.

10 Q. Okay.

11 MR. DOWD: Can we take a two-minute break,
12 please?

13 THE VIDEOGRAPHER: Sure. Off the record at
14 10:48.

15 (A brief recess was had.)

16 THE VIDEOGRAPHER: Back on the record at
17 10:50.

18 A. Okay. The next wound is the left lateral
19 back. It's still in the chest region, but it's on the
20 back. So now we have the body diagram, again, in
21 anatomic position but from the back or the posterior
22 aspect of the body. So this is over here. And this
23 wound went upward, forward, and leftward. It exited
24 the armpit region on the front surface of the body.
25 So we'll actually have to change the diagram to show,

1 but it goes upward, forward, and leftward.

2 Q. (By Mr. Dowd) And -- and that's an
3 approximation that you did with the -- the dowel
4 there?

5 A. Yes.

6 Q. Okay. Could you -- could you do that again
7 as far as the -- the trajectory?

8 A. (Complies.)

9 Q. Okay. Next wound -- is that pretty much --

10 A. It -- yeah. So that's it for the back.

11 Q. Okay.

12 A. Actually, I take that back. There is --
13 there are some abrasions on the back and there is a
14 graze gunshot wound.

15 Q. Could you mark those --

16 A. Sure.

17 Q. -- for the jury, please?

18 A. We have some abrasions here and also located
19 here, and then he has a graze gunshot wound of the
20 right lower back, meaning that it just goes through
21 the outer surface of the skin and the subcuticular
22 tissue but doesn't actually enter into the body
23 cavities. So it's considered just a graze gunshot
24 wound.

25 Q. Could you tell the jury, please, your

1 opinion as to the trajectory of that bullet?

2 A. I was not definitively able to determine
3 which direction it was going. So it's either going
4 right or left and didn't enter the body so it would
5 just be going like this across his body. I can't say
6 which way it was going --

7 Q. All right.

8 A. -- with certainty.

9 Q. Okay. And with the abrasions, were you able
10 to determine the cause of those?

11 A. So most of them I refer to them as what is
12 called pseudostippling. I believe they were created
13 from the projectiles breaking up and hitting the skin.
14 It didn't look like any of it was actually true
15 stippling. Stippling is what's caused on -- what's
16 created when unburned gunpowder hits the skin and
17 creates little abrasions like we previously talked
18 about, little breaks in your skin, from the unburned
19 gunpowder hitting the skin. None of it looked like
20 actual stippling. It looked more like pseudostippling
21 meaning pseudo, fake. So basically because the
22 projectiles were breaking up, they were creating
23 breaks in the skin by portions of bullets hitting the
24 skin. So, again, I don't think it can tell us
25 anything about range of fire. The best I can say is

1 that it was greater than 3 feet.

2 Q. I see. Okay. And strickling (phonetic) is
3 -- is where there are just little cuts perhaps?

4 A. Stippling is usually very small little cuts.
5 Most of these are larger abrasions, but also regions
6 with -- for example, this region had abrasions ranging
7 in size from 0.2 to 0.7 centimeters. So if you think
8 about a centimeter, it's about the size of the tip of
9 your finger. So it was, you know, two tenths of that
10 to seven tenths of that abrasions in this location
11 probably from fragments of projectiles hitting the
12 skin and causing a scrape.

13 Q. If -- if that's -- if that bullet didn't
14 enter his body, it was just hitting skin, would that
15 cause it to fragment? Just -- just curious.

16 A. That one not necessarily. I believe it was
17 created from other projectiles that had fragmented.

18 Q. I see.

19 A. Potentially going through -- going through
20 something before hitting him.

21 Q. Okay. All right. Any more that would be --
22 you would be able to demonstrate on that figure?

23 A. There is nothing more on the back.

24 Q. All right.

25 MR. DOWD: If we could take a brief break.

1 THE VIDEOGRAPHER: Off the record at 10:54.

2 (A brief recess was had.)

3 THE VIDEOGRAPHER: Back on the record at
4 10:55.

5 Q. (By Mr. Dowd) Doctor, have you completed
6 your testimony with regard to the wounds and injuries
7 in his back?

8 A. No. The -- the left lateral back wound
9 exited his left armpit. It's a little challenging to
10 make a good drawing because it's two -- you know, it's
11 one-dimensional, but it basically exited his left
12 armpit located there. So it would have been going,
13 again, from the back to the front and exiting the
14 armpit region.

15 Q. So it would have been going upward like you
16 just --

17 A. Upward --

18 Q. -- just directed?

19 A. -- and then forward because we went from the
20 back to the front.

21 Q. Okay.

22 A. And then left -- slightly leftward because
23 it exited -- you know, it went from the back and then
24 exited out his armpit region.

25 Q. All right. Okay. The next wound, please?

1 A. The next wound is in the left abdomen.

2 Q. Can you describe that for the jury, please?

3 A. It's located about right here. And this
4 wound -- this bullet went upward, backward, and
5 rightward, and it fragmented within the abdominal
6 cavity. So it went this way.

7 Q. All right.

8 A. But backward so into the -- into the board.

9 Q. But it was in a trajectory from -- from down
10 low and --

11 A. It went upward, yes.

12 Q. -- and going upward to the right side?

13 A. Correct. Correct.

14 Q. Okay. The next wound, please?

15 A. I'm sorry. And the -- that first one
16 injured the stomach. I believe --

17 Q. The one you just described?

18 A. Yes.

19 Q. Okay.

20 A. And I believe fragments were recovered from
21 the abdominal cavity, including one in the stomach.

22 Q. Okay.

23 A. The next one is a little bit lower in his
24 left side of his abdomen located approximately there.
25 This one also went upward, backward, and rightward.

1 So, again, into the -- into the board. This one
2 injured his left kidney and again also fragmented
3 within the abdominal cavity.

4 Q. All right.

5 A. And I believe a -- fragments were recovered.

6 Q. All right.

7 A. The next -- the next wound is also in the
8 left abdomen. I technically called it in the pelvis.
9 Some people are lumpers versus splitters. So your
10 pelvic region think more about closer toward your
11 groin region. It was located down here. This one
12 also went upward, backward, and rightward. This one
13 injured the pancreas. It injured a major vessel.
14 There was a small injury to the inferior vena cava.
15 The vena cava, if you think about it, courses through
16 the lower portion pelvic region of your abdomen and
17 goes up to the liver, and that was injured as well as
18 it went through the vasculature in the middle part of
19 the liver and then made a large injury to the liver.
20 Some fragments were also recovered.

21 Q. All right.

22 A. Potentially that could be a lethal injury.
23 However, the injury to the heart would definitely have
24 been lethal as well as the one to the -- to the neck
25 with injury to the head.

1 Q. All right. Can -- can you tell us about the
2 next wound, please?

3 A. Sure. So the next wound that's listed is
4 the right -- the graze wound of the right back which
5 we already talked about.

6 Q. Mm-hmm.

7 A. Then we have -- so I prefer to use the terms
8 ventral and dorsal for the arm. So if you think about
9 a fish, the dorsal fin is on the back part of the
10 fish. So the back part of your arm is the dorsal and
11 the front part of it is ventral. It's just a medical
12 term that I prefer. So the entrance is the right
13 ventral arm.

14 Q. The entrance was in the front of the arm?

15 A. Yes, the front of the arm.

16 Q. Can you --

17 A. Let me just see -- there are several wounds
18 so I just want to make sure I list the right one based
19 on measurements. Okay. So this one is located
20 approximately here. So, again, it's the front part of
21 the arm. Also remember we phrase the arm as from the
22 shoulder to the elbow. The forearm is from the elbow
23 to the wrist. The thigh is from the hip to the knee,
24 and the leg is from the knee to the ankle. So the
25 arm, again, from the shoulder to the elbow, and the

1 ventral or the anterior surface of the arm. So the
2 location is here.

3 Q. And could you tell us what the trajectory
4 was of that bullet?

5 A. Yes. It was downward, backward, and
6 rightward. So this wound was going this way.

7 Q. All right.

8 A. Backwards. And some fragments were
9 recovered in the soft tissue of the right arm.

10 Q. Could you tell the position of his arm when
11 that bullet --

12 A. I could not tell the position of the arm.

13 Q. Okay. Next, please?

14 A. The next is the ventrolateral, so the
15 anterior but side portion of the right arm. So it was
16 located about right here.

17 Q. And -- I'm sorry. Go ahead.

18 A. And this also tracked downward, backward,
19 and this one went leftward, so it was going this way
20 but backwards. The fragments in this one were deemed
21 too small to be recovered.

22 Q. All right. Next wound, please?

23 A. There is another wound to the right ventral
24 arm. It's located about here. And this one exits the
25 right dorsal arm so you will probably have to flip the

1 paper again. So, again, this is -- actually, I'm
2 sorry. I'm sorry. It's the forearm. I'm sorry.
3 Let's see. Right -- no. I'm sorry. I'm right.
4 Okay. Sorry. Right ventral arm and it exits the
5 right dorsal arm. So, again, it exits the back
6 portion of the arm, so this one goes upward, backward,
7 and leftward. It goes like this and then it's going
8 to exit out the back part of the arm.

9 Q. And that's where -- that's the entrance that
10 you've --

11 A. Correct.

12 Q. -- marked there?

13 A. That's the entrance.

14 Q. Okay.

15 A. So if you want to flip the -- so we can see
16 the back part, I can show the exit wound.

17 Q. Was there anything significant about that?

18 A. There is nothing significant. It's just,
19 you know, it would be -- think of the back part of the
20 arm and it would be on -- located on this aspect. It
21 would be located roughly here but on the back part of
22 the arm.

23 Q. Gotcha.

24 A. So the dorsal aspect of the arm.

25 Q. All right. And it did go through and --

1 A. Soft tissue and exited.

2 Q. All right.

3 A. The next wound is actually on, again, the
4 dorsal surface of the forearm, so it would be on the
5 back portion of the right forearm. So it's on the
6 lateral aspect. So, again, think -- if I say medial,
7 it means closer to the body whereas lateral means
8 farther away. So it would have been -- I mean it
9 would be on the right forearm on the back surface of
10 the arm. So it would be on the other surface, roughly
11 about there. Again, because we are looking at the
12 back surface of the forearm, this one goes upward,
13 forward, and rightward. I'm sorry. It's actually --
14 it would be a little bit more like that. And then the
15 exit wound was here. So, again, remember this is
16 supposed to be on the back surface of the forearm, so
17 it would go upward, forward, and rightward.

18 Q. The way you've demonstrated with the -- with
19 that dowel?

20 A. Yes.

21 Q. Okay.

22 A. However, you know, remember, this would be
23 the back surface of the arm.

24 Q. Okay.

25 A. Forearm. Excuse me.

1 Q. Were any of the arm wounds, were they
2 lethal?

3 A. No.

4 Q. All right.

5 A. The next wound is an entrance wound of the
6 left anterior shoulder. So, again, if you think about
7 the shoulder, this one would be roughly about right
8 here. And it went downward, backward, and rightward.
9 So it went downward, backward, and rightward, and
10 fragmented within the chest.

11 Q. So if it started that high in his shoulder
12 and it fragmented down in his chest, that would mean
13 that the -- the gun that it was fired from was --

14 A. The barrel of the gun had to be at a
15 position such that it could go downward, yes.

16 Q. And the fact that the trajectory is down
17 into his chest would indicate that it was being shot
18 from the side more than from the front?

19 MS. MCGOWAN: Objection. Foundation.

20 Q. (By Mr. Dowd) Do you see what I -- do you
21 understand my question?

22 A. The trajectory goes to the right so the
23 position of the barrel of the gun has to be at a
24 position such that the bullet can go rightward,
25 downward, and backward.

1 Q. Okay. And would you point that out with the
2 dowel again one more time? I'm --

3 A. (Complies.) But backwards. So --

4 Q. Okay. Okay. Next wound, please?

5 A. The next wound is also the left anterior
6 shoulder. This one's actually more kind of on the arm
7 and also goes downward, backward, and rightward, and
8 fragments within the chest cavity. So similar thing.
9 Downward, backward, but backward so into the -- into
10 the drawing, and rightward. Similar instance, the
11 barrel of the gun has to be positioned such that the
12 bullet can go downward, backward, and rightward.

13 Q. Thank you. And the next?

14 A. So the next is the left dorsolateral
15 forearm. So, again, we're on the -- the back surface
16 of the arm. And again, it's -- it's roughly -- it's
17 roughly here, but again, on the back surface of the
18 arm, and then it exits the front surface, so the --
19 the ventral surface, in two components. You have two
20 components here. So remember, this is on the back
21 surface so it is going -- well, I guess I drew that
22 incorrectly because it's actually going downward.
23 Yeah. Downward, forward, and rightward. So I
24 apologize.

25 Q. That's quite all right.

1 A. Exits are below. So you're going from the
2 back surface to the front surface. And actually I
3 drew that wrong. It's going rightward. So, again,
4 remember we do everything in anatomic position. It's
5 going to his right. So it's going downward, forward,
6 and rightward. So it went from the back surface of
7 his forearm, out the front surface, and broke both his
8 bones of his forearm, the radius and the ulna, in the
9 process.

10 Q. All right.

11 A. And then he also has a graze gunshot wound
12 of the left dorsomedial hand. So it would be roughly
13 -- remember dorsal, so on the outer -- it would be on
14 the posterior surface. There was a graze wound here.
15 Again, I can't reliably say which way that bullet was
16 going nor how his hand was positioned when that
17 occurred. There was also a graze wound on his left
18 lateral fifth finger. So there was a graze wound
19 located there as well. Again, I wouldn't reliably say
20 which way that bullet was going nor how his hand was
21 positioned during that injury.

22 Q. All right. Is that all of the bullet
23 wounds?

24 A. No. There is one more, in the left anterior
25 knee. So this one would be located about here. And

1 this was more likely a handgun. However, ballistics
2 would have to confirm with what was recovered.
3 However, the wound characteristics and the injury lead
4 me to believe that this -- this is the one wound that
5 was not high velocity and likely created more from
6 just like a handgun or -- I think most of the
7 St. Louis police carry Berettas. Likely from
8 something like that. However, the -- the ballistics
9 recovered would have to be confirmed.

10 Q. Okay.

11 A. So this wound goes upward, backward, and
12 rightward. So it goes up this way, and there were
13 some fragments recovered within the soft tissue of the
14 thigh. I'm sorry. Of the knee, left knee.

15 Q. All right. Is that -- I had counted 24
16 wounds, bullet wounds to him. Does that -- is that
17 all of them?

18 A. That is all of them. I labeled up to 31
19 injuries. That is including entrance, exits, and
20 graze wounds.

21 Q. Yes -- yes, Doctor. So -- but that would
22 consist of all the bullets that went into his body?

23 A. Those are all of the gunshot wounds. There
24 were also some other abrasions located on the anterior
25 or front chest also created probably from projectiles

1 breaking up. He was shirtless when this occurred so
2 it was easy for his skin to have injury to it created
3 by fragments of projectiles.

4 Q. Okay. Now, with regard to your description
5 of all these wounds, they are all at an angle. Most
6 of them are at this upward, backward, and rightward;
7 correct?

8 A. Yes, most of them are going upward,
9 backward, and rightward.

10 Q. Did you find any wounds that were directly
11 into his -- his body as if someone was positioned like
12 you and I are and he was shot standing up?

13 MS. MCGOWAN: Objection. Form.

14 Q. (By Mr. Dowd) Do you know what I'm saying?
15 Could I borrow that, that dowel?

16 A. (Complies.)

17 Q. What I'm saying is, with the dowel you've --
18 you've always pointed at an angle such as this or
19 this. Were there any like this?

20 A. The graze wound of the right back is going
21 either right to left or left to right. So yes.

22 Q. That -- just that one?

23 A. Correct.

24 Q. Okay. But none -- none other than where he
25 was shot in the chest and it was directed directly at

1 him?

2 A. Correct.

3 Q. With regard to Exhibit 2, it -- does the
4 body bleed when it gets shot?

5 A. Yes.

6 Q. Does that -- does that photograph depict the
7 amount of blood you would see from those 24 shots?

8 MS. MCGOWAN: Objection. Form. Foundation.

9 A. I mean, this would not be uncommon. There
10 was a large amount of blood that was located within
11 the body cavities that did not actually exit the body
12 so it depends on position because he's on his back and
13 a lot of the projectiles didn't actually exit the
14 body. A lot of the blood is maintained within the
15 body cavity.

16 Q. (By Mr. Dowd) Okay.

17 A. I know when he was rolled at the scene,
18 there was a large amount of blood that was expelled
19 from the body.

20 Q. You say he was rolled?

21 A. So our investigators always also view the
22 back. It's also a safety measure to make sure there's
23 not something underneath the body before he is removed
24 from the scene.

25 Q. So the medical examiner's office sends an

1 investigator that is to examine the body before it's
2 moved?

3 A. Correct. We have an investigator, a
4 medicolegal death investigator who is on 24 hours a
5 day, 7 days a week, 365 days a year. Just like any
6 other medical profession, a history is very important
7 to us. Autopsy alone cannot determine cause and
8 manner of death so we have somebody -- anybody who
9 dies not at the hospital, who dies at what we call a
10 scene, we send our investigator to investigate. They
11 take their own photographs, they talk to witnesses,
12 they talk to law enforcement, and basically give us a
13 scenario that's provided to us before we do the case.

14 Q. And who was the investigator on this -- this
15 shooting?

16 A. The investigator was Tara Rick. She has
17 since been promoted to the office administrator.
18 However, at the time, she was still an investigator in
19 our office.

20 Q. Okay. And would she have taken photographs?

21 A. Yes, she did take photographs at the scene.

22 Q. Okay. And you've had an opportunity to
23 review those photographs?

24 A. Yes.

25 Q. Did you look -- we received small copies.

1 Were you able to review them on the computer?

2 A. Yes.

3 Q. Okay. And they were color pictures on the
4 computer?

5 A. Yes, on the computer they are color.

6 Q. Okay. I'm going to hand you what is being
7 marked Plaintiff's Exhibit 3 and ask you if you've had
8 an opportunity to view that.

9 A. I don't believe this was in our photographs.
10 I believe the -- this was removed prior to the medical
11 examiner being called to the scene. So I had not seen
12 this previously, I believe.

13 Q. Okay.

14 A. It's -- I -- I'm not 100 percent certain it
15 was in our photos or not.

16 Q. Okay.

17 A. Typically any guns are removed prior to the
18 medical examiner being called to the scene.

19 Q. I see. Okay. With regard to that
20 photograph -- you're -- you're familiar with police
21 investigative procedures, that they photograph
22 everything before it's been handled or touched?

23 A. Yes.

24 Q. Okay.

25 A. They have to ensure the scene is secure.

1 They need to do their evidence collection before the
2 medical examiner is called. We only have jurisdiction
3 of the body. Nothing else at the scene.

4 Q. Can you tell me, based upon your review --
5 if you would show that picture to the jury and tell me
6 and point out anywhere you see on that -- that gun any
7 -- any blood of any kind.

8 MS. MCGOWAN: Objection. Form.

9 A. Grossly I don't see any, but that doesn't
10 mean there is not any blood on it. But I don't --

11 Q. (By Mr. Dowd) There's none --

12 A. I mean, I don't see any on the surface
13 that's up towards us, but I can't be certain.

14 Q. There's none on that picture, is there?

15 A. Not that I can see with the naked eye.

16 Q. Okay. I'm going to hand you what's been
17 marked Plaintiff's Exhibit 4, that being the other
18 side of the gun, if -- correct me if I'm wrong about
19 that, but it appears to be the opposite side of the
20 gun?

21 A. I can't say for certain.

22 Q. Okay. We'll -- but --

23 A. On -- I don't see any blood on this either.
24 I can't say for certain if it's the opposite side or
25 not.

1 Q. Okay.

2 A. Again, but that's with the -- with the --
3 with the naked eye I cannot see it.

4 Q. Okay. Do you recall seeing blood on the
5 floor in -- in the photographs that you reviewed?

6 A. Yes.

7 Q. Okay. And they were the same kind of
8 photographs?

9 A. Yes.

10 Q. I'm going to hand you what's been marked
11 Exhibit 5 and ask you if that's one of the photographs
12 you saw in your -- in your review.

13 A. I don't recall this photograph. Potentially
14 Tara did take a photograph of it, but unlikely she
15 would be concerned. This is a photograph of the floor
16 with blood spatter, but typically our investigators
17 are not concerned with blood spatter. That's for a
18 blood spatter expert.

19 Q. I see. Okay. Thank you. With regard to
20 the gunshot wounds in the back on Isaiah, can -- it
21 sounds like they were all from -- from above and going
22 downward?

23 MS. MCGOWAN: Objection. Foundation.

24 A. That's incorrect.

25 Q. (By Mr. Dowd) Okay.

1 A. The left lateral back went upwards. So it
2 was kind of more like the lateral back aspect of the
3 chest. So similar to where the ones on the left
4 lateral chest was, but it was going upwards like the
5 other ones. Some in the arm were going downwards.
6 However, the majority of wounds were going upwards.

7 Q. Okay. And again, the wounds in the back
8 were not straight into his back? They were -- they
9 were at a pretty dramatic angle?

10 MS. MCGOWAN: Objection. Vague.

11 A. I can't say dramatic. They were going --
12 the wound in the back was going upward.

13 Q. (By Mr. Dowd) And I think you described it
14 as something like this?

15 MS. MCGOWAN: Objection. Foundation.

16 Q. (By Mr. Dowd) If you would. I don't -- I
17 don't want to put words in your mouth if --

18 A. It went upward --

19 Q. Okay.

20 A. -- and exited the armpit.

21 Q. So that's -- by "dramatic" I mean as opposed
22 to this, it was -- I'm sorry -- it was more like this?

23 A. I mean, it was upward.

24 Q. Bad word. Bad word. All right.

25 A. It was upward.

1 Q. Okay. Are -- were you able to determine --
2 well, you've testified as to what were the lethal or
3 the killing shots. Can you tell us which those were
4 specifically?

5 A. So the -- the -- the most lethal injuries
6 were the injury to the neck with also the basilar
7 skull fractures. So the gunshot wound of the neck --
8 I'm sorry -- gunshot wounds of the neck and chest.
9 Also the chest wound that injured such a large portion
10 of the heart. Again, I do believe it's probably that
11 first chest wound we -- I described. However,
12 potentially it could have been from one of the other
13 ones due to the fragmentary nature of the ballistics.
14 So it was -- the cause of death is gunshot wounds of
15 the neck and chest.

16 Q. And you cannot tell which -- which of the
17 shots hit him first or in what order?

18 A. I cannot tell order of shots.

19 Q. Okay. Because of the angle of the shots,
20 because they were either -- they were coming from
21 below him, the gun would -- the gun firing the shots
22 would either have to be below his waist? Is that a
23 fair statement?

24 MS. MCGOWAN: Objection. Foundation.

25 A. Not necessarily. I mean, you could probably

1 have a gun at your waist and still angle it upward. I
2 mean, I'm --

3 Q. (By Mr. Dowd) Do you see what I'm saying?
4 I'm trying to get --

5 A. Again, the barrel of the gun has to be
6 positioned such that it can go in the direction that
7 these went. The majority of them went upward,
8 backward, and leftward. So the guns had to have been
9 positioned such that they could -- the bullets could
10 enter the body in that way.

11 Q. Do you mean upward, backward, and rightward?

12 A. I'm sorry if I said leftward. Yes.

13 Q. Okay.

14 A. Upward, backward, and rightward, yes.

15 Q. Okay. So if he was on the floor and his
16 feet were closer to the officers that were shooting
17 than his head, he was at an angle as he is in this
18 picture -- you see the angle he's at in this picture.
19 I'll hand you what been marked Plaintiff's Exhibit 6.
20 That would be consistent with the bullets being fired
21 from the -- are you familiar with the floor plan of
22 the home?

23 A. Not exactly, no.

24 Q. Okay.

25 A. The problem with this photo is that his left

1 arm covers a majority of the left chest wounds.

2 Q. Okay.

3 A. So it's unlikely that they were created in
4 this position without more injury to his left arm
5 located right there.

6 Q. That's the position he ended up in; correct?

7 A. Correct.

8 Q. We don't know what position he was in when
9 he first hit the floor, do we?

10 A. No.

11 Q. The police department created a diagram of
12 the floor plan. Was that ever a part of your
13 examination or evaluation of it?

14 A. It was not. That does not affect cause and
15 manner of death, and I am charged with determining
16 cause and manner of death.

17 Q. Okay. Well, there's no -- no question that
18 the cause of death was the bullet holes that -- that
19 you found. Is that a fair statement?

20 A. Yes. The cause of death was gunshot wounds
21 of the neck and chest.

22 Q. Okay.

23 MR. DOWD: Can we take a quick break?

24 THE VIDEOGRAPHER: Off the record at 11:25.

25 (A brief recess was had.)

1 THE VIDEOGRAPHER: Back on the record at
2 11:26.

3 Q. (By Mr. Dowd) Doctor, I'm going to hand you
4 what's been marked Plaintiff's Exhibit 7, and I will
5 hand it to you in a second, but it shows the dining
6 room where his body was located and there is a stick
7 figure from the investigator, Detective Sommers,
8 setting forth where his body was, and the dining -- in
9 the living room you see the fireplace on the left end.
10 The officers have testified they were there in the
11 living room on that end firing into the dining room
12 and that that's where he -- he ended up in that.
13 Could you take a look at that, please?

14 Based upon the angle of his body in that
15 diagram from the detective and the location of the
16 officers in the dining room there and the upward,
17 backward, and rightward trajectory of most of these
18 bullets, would it be -- and the officers have
19 testified they fired from those locations -- would it
20 have been possible for him to be standing and receive
21 those wounds that you've described here today?

22 MS. MCGOWAN: Objection. Foundation. Form.
23 Vague.

24 Q. (By Mr. Dowd) Do you understand the
25 question?

1 MS. MCGOWAN: Compound.

2 A. If they were firing from the fireplace, it
3 is unlikely that they could hit the left side based on
4 this diagram if this is indeed how he was found. So
5 it was unlikely that he was lying on ground when he
6 received these and it is most likely that he was in a
7 standing position. However, again, that assumes that
8 this is indeed correct and that that's exactly how it
9 occurred.

10 Q. (By Mr. Dowd) Explain to the jury, Doctor,
11 how -- you've pointed this direction on all of these.
12 And they -- they came in here and went here. All of
13 these.

14 MS. MCGOWAN: Objection. Foundation.

15 Q. (By Mr. Dowd) How -- how could those -- how
16 could he have been standing?

17 MS. MCGOWAN: Objection. Form.

18 A. Again, this has him located here, and you
19 said the --

20 Q. (By Mr. Dowd) No, he's not -- that's where
21 he was lying when they came.

22 A. Right.

23 Q. Okay.

24 A. That's where he was lying, and you're saying
25 that they fired from the fireplace.

1 Q. Well, that --

2 A. So how can they go this way from his left
3 side to his right -- he was lying on his back. So if
4 he is indeed lying here and they are shooting from the
5 fireplace --

6 Q. They're not shooting from the fireplace.

7 A. -- they could not --

8 Q. I didn't mean to misrepresent that to you.
9 They said they were here in the -- in the living room.
10 Right here.

11 A. Again, in the living --

12 MS. MCGOWAN: Objection. Foundation.
13 Vague.

14 Q. (By Mr. Dowd) You can answer.

15 A. Again, shooting from this location with the
16 body if it is indeed this way, you cannot get to the
17 left side and go upwards and backwards shooting from
18 here so that implies that he was not in this position
19 when he was injured.

20 Q. This is his left side; correct?

21 A. Correct. And his left side is located here
22 which is not a possible trajectory that would be able
23 to be shot from here to hit going this way.

24 Q. This is his left side which -- and the
25 bullets went -- that bullet went this way; correct?

1 A. Correct. And his left side is over here
2 furthest away which suggests if this is indeed how it
3 took place, that he would have had to have been in a
4 standing position. It does not suggest --

5 Q. If he is in --

6 A. If they indeed fired from this location, you
7 can't possibly go this way if that's indeed how he was
8 found on the ground without be -- being over here.

9 Q. If he was standing, the bullets would have
10 gone in like this; correct?

11 MS. MCGOWAN: Objection. Foundation.

12 Q. (By Mr. Dowd) They would have gone straight
13 into him --

14 A. No, not necessarily --

15 Q. -- at whatever angle?

16 A. -- if the gun is angled upwards. Perhaps
17 the police were kneeling. Perhaps -- I can't say.

18 Q. So they would have to be a lot closer than
19 here if they were going to shoot upwards and -- and
20 have bullets go into him like that; correct?

21 A. Not necessarily. All I can say is that the
22 range of fire is greater than 3 feet. I can't say
23 other than that that they were further than 3 feet
24 away. They could have been as close as 3 feet.

25 Q. So --

1 A. But --

2 Q. You testified earlier you're not a
3 ballistics expert?

4 A. Correct.

5 Q. Okay. That's all I have. Oh, Doctor, have
6 all of your opinions you've expressed here today been
7 within a reasonable degree of medical and scientific
8 certainty?

9 A. Yes.

10 Q. Thank you.

11 EXAMINATION

12 QUESTIONS BY MS. MCGOWAN:

13 Q. Good morning, Doctor. My name is Erin
14 McGowan. I introduced myself before. I'm
15 representing the defendants. It's true that how the
16 muzzle of a gun is oriented to the body dictates the
17 angle the projectile enters the body?

18 A. Correct.

19 Q. So bullet wound trajectory is the
20 three-dimensional description of a path of the bullet
21 into the body; is that correct?

22 A. Yes.

23 Q. Okay. So it simply reflects the orientation
24 of the firearm relative to the body?

25 A. Correct.

1 Q. So long as the relationship between the
2 firearm and the body is maintained, that scenario can
3 be rotated in almost a 3-D access -- axis?

4 A. Correct.

5 Q. So given that there's a three-dimensional
6 relationship between the firearm and the body, as long
7 as that relationship is kept and it can be rotated on
8 the access -- axis, there could be several possible
9 circumstances or scenarios that cause these wounds
10 that we've talked about today; is that true?

11 A. Yes. For example, most people don't stand
12 with their palms up in anatomic position. So, again,
13 like we said with the -- the arm and forearm wounds,
14 we can't reliably say how his arms were, but again,
15 it's a three-dimensional rotating potentially
16 scenario.

17 Q. So it's true that any number of body
18 positions or circumstances can be consistent with
19 these wounds?

20 A. Correct.

21 Q. And you cannot tell from examining these
22 wounds whether or not he was in any particular
23 position?

24 A. Correct.

25 MS. MCGOWAN: Could you please mark this

1 Defendant's Exhibit A.

2 (Defendant's Exhibit A marked for identification.)

3 Q. (By Ms. McGowan) And, Doctor, I'm handing
4 you what's been marked Defendant's Exhibit A. I want
5 to direct you to the last page of that exhibit which
6 I'll represent to you is the postmortem examination.

7 A. The cause of death sheet?

8 Q. That's correct, yes.

9 A. Okay.

10 Q. And is it true that Isaiah Hammett tested
11 positive for cannabinoids?

12 A. Yes, he did.

13 Q. Okay. And did you perform any tests for
14 gunshot residue on Mr. Hammett?

15 A. No.

16 Q. Doctor, I think those are all the questions
17 I have for you today. Thank you very much.

18 A. You're welcome.

19 EXAMINATION

20 QUESTIONS BY MR. DOWD:

21 Q. Doctor, I'm not sure I followed what you
22 were saying about -- and what the city counselor was
23 saying as far as it's a three-dimensional rotating.
24 So you would have to move the position of everybody
25 for -- for these wounds to have come from the -- from

1 a position where Isaiah was standing?

2 A. No. I guess the -- people don't stand
3 typically with their hands at their sides like this so
4 there is going to be some movement of hand and body.

5 Q. Right. So that's why you testified you
6 couldn't tell why -- or where his arms were when he
7 was being shot?

8 A. Correct.

9 Q. But there is no question that his body was
10 in that relationship to the trajectory of the bullets
11 that you described throughout your deposition;
12 correct?

13 A. Yes. The muzzle of the gun had to be at an
14 angle such that the bullets could travel through the
15 body at the described path.

16 Q. Okay. With regard to the question about
17 cannabinoids, that's marijuana?

18 A. Correct.

19 Q. And he didn't have any opioids or any meth
20 -- any -- anything else in him?

21 A. No. It was a metabolite of marijuana.

22 Q. All right. What does that mean?

23 A. It's a breakdown product. Again, looking at
24 one value is very hard to say how somebody would have
25 been affected by it. I can't say for certain without

1 knowing frequency of use including how much and how
2 often used.

3 Q. So -- so you're saying it was a very minimal
4 amount?

5 A. Not necessarily.

6 Q. What -- what is --

7 A. Again, you cannot make a statement looking
8 at one level in an individual. You would have to have
9 serial values, you would have to know how much he used
10 how frequently to know the effect of it on him.

11 Q. Okay. Again, all of your opinions you've
12 expressed here today have been within a reasonable
13 degree of medical and scientific certainty?

14 A. Yes.

15 MR. DOWD: That's all I have.

16 MS. MCGOWAN: Nothing further. Thank you,
17 Doctor.

18 THE DEPONENT: Thank you.

19 MR. DOWD: Doctor, you have the right to
20 read your deposition to ensure that it was taken down
21 as spoken here today and as demonstrated, or you can
22 waive signature, whichever you would like to do.

23 THE DEPONENT: I would prefer to read it and
24 sign.

25 MR. DOWD: Okay. Very good.

Deposition of Erin E. Ely, M.D.

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1 THE VIDEOGRAPHER: This concludes --

2 MR. DOWD: That's all I have. Thanks,
3 Doctor.

4 THE VIDEOGRAPHER: -- the deposition of
5 Dr. Erin Ely. We are off the record at 11:37.

6 (Video off.)

7 MR. DOWD: The diagrams I'm going to mark 9
8 and 10.

9

10 (Deposition was concluded and will be signed
11 by the witness.)

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C E R T I F I C A T E

I, Heather L. Shallow, Certified Court Reporter within and for the State of Missouri, duly commissioned, qualified and authorized to administer oaths and to certify to depositions, do hereby certify that pursuant to notice/agreement in the cause now pending and undetermined in the United States District Court for the Eastern District of Missouri, Eastern Division, to be used in the trial of said cause in said court, I was attended at the Office of the Medical Examiner, 1300 Clark Avenue, in the city of St. Louis, State of Missouri, by the aforesaid witness, and by the aforesaid attorneys, on the 5th day of February, 2020.

That the said witness, being of sound mind and being by me first carefully examined and duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the case aforesaid, thereupon testified as is shown in the foregoing transcript, said testimony being by me reported in shorthand and caused to be transcribed into typewriting, and that the foregoing pages correctly set forth the testimony of the aforementioned witness, together with the questions

1 propounded by counsel and remarks and objections of
2 counsel thereto, and is in all respects a full, true,
3 correct and complete transcript of the questions
4 propounded to and the answers given by said witness,
5 that signature of the deponent was not waived by
6 agreement of counsel and of witness.

7 I further certify that I am not of counsel or
8 attorney for either of the parties to said suit, not
9 related to nor interested in any of the parties or
10 their attorneys.

11 Witness my hand at St. Louis, Missouri, this 12th
12 day of February, 2020.

13
14
15 _____
16 Heather L. Shallow, CCR, RPR, RMR
17 CCR No. 0442
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Deposition of Erin E. Ely, M.D.

Gina Torres, et al. v. City of St. Louis, et al.

1 February 12, 2020

2

3 Erin E. Ely, MD
4 Office of the Medical Examiner
5 1300 Clark Avenue
6 St. Louis, Missouri 63103
7 erin.ely@health.slu.edu

8

9 Re: Deposition of Erin E. Ely, MD
10 Date: February 5, 2020
11 Case: Gina Torres and Dennis L. Torres vs. City of
12 st. Louis, et al.

13

14 Dr. Ely,

15

16 You did not waive the right to read and sign your
17 deposition in the above referenced matter. Attached
18 is the copy of the deposition, together with errata
19 sheets and additional signature page. Please read the
20 transcript, list any corrections (including page and
21 line number) on the errata sheets, and sign and date
22 the signature page in front of a notary.

23

24 Within 30 days, please return the errata sheets and
25 signature page to our office via e-mail or regular
mail for further processing. Your prompt cooperation
will be appreciated.

26

27 Sincerely,

28

29 Heather L. Shallow, CCR, RPR, RMR

30

31

32 360 Litigation Services
33 Production Department
34 10097 Manchester Road, Suite 102
35 St. Louis, MO 63122
36 (314) 394-2206(main)
37 (314) 394-2207(fax)
38 Office@360litigationservices.com

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1 Comes now the witness, ERIN E. ELY, M.D.,
2 after having read the foregoing transcript of the
3 deposition taken on the 5th day of February, 2020,
4 hereby acknowledges by signature hereto that it is a
5 true and accurate transcript of the testimony given on
6 the date hereinabove mentioned.

7

8

9

10

11

12 ERIN E. ELY, M.D.

13

14

15

16 Subscribed and sworn to me before this _____ day of
17 _____, 2020.

18

19 My Commission expires:

20

21

22

23 Notary Public

24

25

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